



Costs Decision

Hearing Held on 28 September 2021

Site visits made on 10 June 2021 and 28 September 2021

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 12th November 2021

Costs application in relation to Appeal Ref: APP/Z1510/W/21/3267825 Land North of Station Road, Earls Colne CO6 2ER

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Heyhill Land Limited for a partial award of costs against Braintree District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for outline planning permission with all matters reserved except access, for up to 53 residential dwellings, associated landscaping, public open space, SuDS and formation of new vehicle access off Station Road.
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Decision

1. The application for an award of costs is refused.

The submissions

2. The costs application was submitted in writing and the Council's response and the Applicant's final reply were made orally at the hearing.

Reasons

3. The Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
4. It adds that examples of unreasonable behaviour by local planning authorities include introducing fresh and substantial evidence at a late stage necessitating an adjournment, or extra expense for preparatory work that would not otherwise have arisen.
5. The Appellants final comments were submitted in late April 2021 and in mid May 2021, the Council submitted evidence indicating that it was reviewing its housing land supply position. In late May 2021, the Council submitted further evidence stating that the housing land supply had changed and the Council were able to demonstrate a five year housing land supply.
6. While I acknowledge that housing land supply is a continuous process, it is reasonable for the Council to periodically review their position and the effect on the appeals in their area.
7. The Housing Land Supply position was updated to 31 March 2021 and the update in position was submitted as part of the appeal in late May 2021.

However, even if the Council had submitted their updated position earlier, since the appeal was submitted by the Applicant in January 2021, they would have had to respond to the updated position and given the dispute regarding the sites that contribute to the housing supply, it is likely that a change of procedure to a hearing would have been necessary in any event.

8. I acknowledge the evidence regarding the site visit date being changed due to issues with the consultation process. However, there is little substantial evidence to indicate that the delay in this respect has resulted in unnecessary expense in the appeal process.
9. Accordingly, the Council has not behaved unreasonably and in any event unnecessary expense has not been incurred in the appeal process.

Conclusion

10. Consequently, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

R Sabu

INSPECTOR